

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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ANDRES EMETERIO TERAN, on behalf of	:	
himself and FLSA Collective Plaintiffs,	:	
	:	19-CV-10134 (OTW)
Plaintiff,	:	
	:	<b><u>OPINION &amp; ORDER</u></b>
-against-	:	
	:	
NAI TAPAS RESTAURANT CORP. and RUBEN	:	
RODRIGUEZ,	:	
	:	
Defendants.	:	
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**ONA T. WANG, United States Magistrate Judge:**

On March 25, 2021, the Court declined to approve the proposed settlement agreement under *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015) because the proposed settlement agreement had an overly restrictive non-disparagement provision. (ECF 39 at 4-5 (citing *Martinez v. Gulluoglu LLC*, No. 15-CV-2727 (PAE), 2016 WL 206474, at \*1 (S.D.N.Y. Jan. 15, 2016) (finding non-disparagement provisions generally contravene the FLSA’s purpose); *Gaspar v. Pers. Touch Moving, Inc.*, No. 13-CV-8187 (AJN), 2015 WL 7871036, at 83 (S.D.N.Y. Dec. 3, 2015) (Non-disparagements provisions “prevent the spread of information about FLSA actions to other workers (both employees of Defendants and others), who can then use information to vindicate their statutory rights.”)). The Court, employing the *Wolinsky v. Scholastic Inc.*, 900 F. Supp. 3d 332, 335 (S.D.N.Y. 2012) factors, found that the rest of the proposed settlement agreement compiled with *Cheeks*.

The Court ordered that the parties file a revised settlement agreement. (ECF 39 at 6). On April 8, 2021, the parties filed a revised settlement agreement that removed the mutual non-disparagement clause. (ECF 40). Accordingly, I **approve** the Settlement Agreement (ECF 40-1).

The Clerk of Court is directed to terminate any open motions and close the case.

**SO ORDERED.**

Dated: April 9, 2021  
New York, New York

s/ Ona T. Wang  
**Ona T. Wang**  
United States Magistrate Judge